

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION

FIDELITY & GUARANTY INSURANCE  
UNDERWRITERS, INC.; EILEEN  
SLEVIN; and GUS RICHTER

PLAINTIFFS/COUNTER-DEFENDANTS

vs.

No. 1:04CV115-D-D

JANICE SULLIVAN; WAYNE SULLIVAN

DEFENDANTS/COUNTER-PLAINTIFFS

ORDER DENYING PLAINTIFF'S MOTION  
FOR SUMMARY JUDGMENT

Presently before the court is the Plaintiff Fidelity & Guaranty Insurance Underwriters, Inc.'s motion for summary judgment. Upon due consideration, the court finds that the motion should be denied.

The court finds that genuine issues of material fact exist, and that the Plaintiff has failed to show that it is entitled to judgment as a matter of law. Further, the court has the discretion, which it exercises here, to deny the Plaintiff's motion at the present juncture. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255, 106 S. Ct. 2505, 2513, 91 L. Ed. 2d 202 (1986) ("Neither do we suggest ... that the trial court may not deny summary judgment in a case where there is reason to believe that the better course would be to proceed to a full trial.").

THEREFORE, it is hereby ORDERED that the Plaintiff's motion for summary judgment (docket entry 16) is DENIED.

SO ORDERED, this the 6th day of May 2005.

/s/ Glen H. Davidson  
Chief Judge